

TUESDAY, FEBRUARY 17, 2004

IN JOINT CONVENTION

MESSAGE OF GOVERNOR ON TENNCARE

CALL TO ORDER

Mr. President Wilder called the Joint Convention to order pursuant to **House Joint Resolution No. 867**.

ROLL CALL

Mr. President Wilder declared that a quorum was present.

On motion of Senator Crutchfield, the roll call of the Senate was dispensed with.

On motion of Representative McMillan, the roll call of the House was dispensed with.

Mr. Russell Humphrey, Chief Clerk of the Senate, read **House Joint Resolution No. 867**, authorizing the Joint Convention to hear the Message of Governor Phil Bredesen.

MOTION

Representative McMillan moved that Mr. President Wilder appoint a committee composed of six members from the Senate and six members from the House of Representatives to notify the Governor that the Joint Convention was in session and awaiting his arrival, which motion prevailed.

APPOINTMENT OF SELECT COMMITTEE

Mr. President Wilder appointed a committee composed of Senators Dixon, Fowler, Graves, McLeary, McNally and Southerland; and Representatives Bowers, Johnson, Langster, Marrero, Mumpower and Overbey. Senator Dixon served as Chairperson of this committee.

RECESS

On motion, the Joint Convention recessed pending the arrival of the Governor.

CALL TO ORDER

Mr. President Naifeh called the Joint Convention to order.

Mr. President Naifeh declared a quorum was present.

On motion, the roll calls of the Senate and House of Representatives were dispensed with.

The Honorable Phil Bredesen, Governor, appeared at the Bar of the House Chamber and was escorted to the Speaker's Podium.

Mr. Speaker Naifeh presented the Honorable Phil Bredeesen, who delivered the following address:

SAVING TENNCARE

GOVERNOR PHIL BREDESEN

February 17, 2004

Governor Wilder, Speaker Naifeh, members of the 103rd General Assembly, friends, guests, and my fellow Tennesseans: I stand before you tonight, as I promised, to propose a course of action in response to a clear danger — to the clear danger — to our state and its future: the unchecked growth of spending on our TennCare program.

The Tennessee General Assembly is gathered here tonight. I want to recognize that so too are TennCare members, advocates for these members, advocates for specific health care businesses, providers, and just plain Tennesseans who care about the future of our state. I call on each of you tonight — lay aside your hardened positions — open your minds to what we have to do. Tonight is TennCare's last chance.

This has been a difficult issue for me personally. On one hand, I want to help people. On the other hand, I know in my heart that we have to act. What I am presenting tonight is my best effort to reconcile those two conflicting obligations — a conflict I think we all feel: the obligation to help those less fortunate, and the obligation of responsible adults to act in the real world in all its imperfection.

I want to begin with a story, the story of the biggest house in the neighborhood.

Once upon a time there was a family, with a mother and a father, and a son and a daughter. They were a fine, loving family, and some years before the time of our story, they had stretched to buy a great big, expensive house — the biggest house in the neighborhood. It had everything they dreamed of; a pool, game rooms, enormous yard, bathrooms for everyone with some left over.

Every month, when it came time to pay the bills, mom paid the mortgage, the property taxes, mom paid the heat, and light, and repairs on their huge house. And each month when she got done, there was practically nothing left for anything else.

They talked about family vacations, but they never could actually go, there wasn't any money left after paying the house bills. The son and the daughter dreamt of someday going to college. But it wasn't likely, they were saving nothing for college. Just keeping up the biggest house in the neighborhood was taking it all.

I want to break this story here, as I'm sure it is obvious where I'm going: TennCare is just like that great big house; it's got everything, it's well-intentioned, but we can't afford it, we're in over our heads, and scrambling to keep up with the bills means we starve to death other things that in the end are equally important — like education.

Let me put this in perspective. The total cost of the pharmacy benefit alone in TennCare has become greater than the total cost of Tennessee's higher education system. Just two drugs in TennCare — Zyprexa and Zocor — cost our state more than we appropriate to run the University of Tennessee medical school. That's a fire bell in the night. Something is wrong.

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I'm here tonight to ask you to do the same thing that we did together last year: to apply the commonsense principles of a family budget, this time to TennCare. Figure out how much we want to spend on this important program, balance it with other needs in our state, and then spend that much and no more.

To begin that process, last summer, I asked McKinsey & Company, a respected international consulting firm, to evaluate the long term costs of the program as it is currently organized. They brought to this analysis both their expertise and their independence: they are not providers, they're not politicians, they're not advocates for any group except the State of Tennessee. They presented the first part of their report in December, you have seen it, and there are two specific things I would like you to recall tonight.

First, even with the reforms currently underway, TennCare as it is currently structured will eat 91% of all the new dollars from growth in 2008. That means backsliding on all our other priorities, and is obviously unacceptable.

Second, TennCare's financial problems are structural; we cannot fix it by tinkering around the edges — this is not about catching fraud here and tightening up management there. There are clearly problems with execution, with the management structure of the program, and we need to and will fix them. But we need to face the basic facts: too many people with too many benefits for the money we have. Something has to give.

Without significant, structural reform of TennCare, we'll be unable to invest — we'll be unable to even keep up — in education, in job creation, in areas that are critical to our future and our children's future.

All great enterprises start with the heart, are powered by the heart. TennCare was and is a wonderful dream. Hundreds of thousands of Tennesseans today have health insurance who in other states would have none. Every single one of those Tennessee families with health insurance is a victory, and makes our struggle worthwhile.

I want to save TennCare, not dismantle it. All great enterprises are powered by the heart, but are steered by the head. It's time to do some steering, and my purpose here tonight is not to kill TennCare but to tell you what we have to do to save it.

To the TennCare enrollees listening, let me assure you that changes will be orderly and will be well-communicated; no one needs to worry about anything happening overnight.

Before I get to specifics, I want to ask each of you to change the way you view TennCare. We've let go of the reins of TennCare in a way we have nowhere else in our state government. We've accepted a world in which doctors and hospitals and advocates decide what is needed, however expensive it is, however little it offers over less expensive alternatives. In that world, the role of the governor and the legislature and the people of Tennessee is to simply somehow come up with whatever it takes to pay the bills.

I reject that view. When we abandon our responsibility to manage costs — when we pay for everything and anything — we encourage an inefficient and unfair system.

Imagine that you are shopping at the grocery store. You walk up and down the aisles with an employee of the store, who recommends selections to you. Everything on the shelves is available, as much of it as you want, nothing is off limits. When you come to the checkout, you're rung up, you

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never see the total, you never open your wallet — the bill is just sent to someone else who pays it for you. You'd spend a lot more than you do right now, and that is the way TennCare works today.

To save TennCare, we need to take the reins back. To establish that we are going to do more than just pay the bills, that we are going to decide how much and for what we are going to pay. To stop being just a payer, just a checkbook, and to become a purchaser.

Here's how we save TennCare.

To describe what is inevitably a complex plan, I've organized it under four principles: first, we will fix the problem, and not pass it off to someone else; second, we will protect children, pregnant women, and the disabled; third, we will work to eliminate fraud and abuse; and fourth, we will change our benefit package to one that we can afford.

First, fix the problem and not pass it off to someone else. The system we have is both expensive and inefficient. We need to acknowledge that and fix it.

We have to start by accepting that Washington is not going to make our problem go away. We're all proud of Senator Frist's position as majority leader, but there is no way in which he or anyone else in our delegation can selectively obtain for Tennessee the billions of dollars of new federal money that it would take to stop this wreck. There's a massive federal deficit, there are no secrets in Washington, there are 49 other states struggling with the same issues.

In fact, just yesterday the *New York Times* underscored that federal support for Medicaid may well be cut, and if that were to occur we would need to take even more aggressive action than I'm proposing tonight. There is no painless, miracle cure for TennCare in Washington.

There are some who would have us look to a new tax, an income tax or a provider tax for example. These aren't solutions. A new tax just takes an inefficient system and delays the day of reckoning for the year or two it takes to run through that new money. The only workable strategy is to fix the problem, not to pass it off to someone else.

The second principle — protect children, pregnant mothers, and the disabled. Children, and pregnant mothers, and the disabled are among the most vulnerable of our citizens. We need to be especially vigilant in looking out for them.

As you will see in a moment, in order to save TennCare I am asking the other enrollees, largely able-bodied adults to accept some genuine restrictions. The only thing that I'm asking of the children and disabled is that they use the least expensive prescription drug that meets their needs, to not use prescriptions when over-the-counter drugs will do fine, and to take part in a disease management program when appropriate.

The third principle — eliminate fraud and abuse.

We're far too easy to get along with. TennCare's financial problems are structural, and even if we achieved the impossible and completely eliminated abuse that would not save TennCare. But as a matter of fairness, as a matter of good business management, and as a matter of directing the services we have available to those who most need them, we need a whole different level of attention to this problem.

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When someone has lied to get in the system, yes, we need to take them off the rolls, we also need to try to recover the money they have in effect stolen from the taxpayers. When someone abuses the system, there need to be legal and financial consequences beyond just saying "don't do it again."

I know that a number of you in this chamber tonight have been concerned over the years about this issue of fraud and abuse. I'm asking you tonight for your support to remove the fraud and abuse unit from TennCare, to set it up as a separate unit in state government, and to give it the authority and autonomy it needs to actively go after fraud and abuse, to recover money that has been stolen from the program, and to refer to the district attorneys the cases that warrant criminal prosecution.

I want this to be a law enforcement unit, not a bureaucratic one, with law enforcement attitudes and tools, and law enforcement accountability to me and to the general assembly for results.

Now, fourth, to the heart of the matter — a system of benefits we can afford.

I learned in the private sector that the cost of health care is the product of three things: the number of people being served, the price we pay for each item, and the benefit package that we offer.

With regard to the first element — the number of people served — I am committed to try to keep people who genuinely qualify on the rolls — to save TennCare rather than just cut the enrollment. I believe it is more sensible to provide some benefits to everyone than to have the platinum plan for some and nothing for the rest. We always have the option to reduce TennCare enrollment as a fallback position in the future. For now, I want to try to keep people enrolled.

The second element — the price we pay for each item — has limited scope as well. We need to keep pushing on pharmaceuticals, there remain real opportunities to reduce prices there. But in other areas we have already pushed pretty hard. For example, we have frozen what we pay providers — doctors, hospitals and others — to the point where some are dropping out of the system or having financial difficulties. For these providers, we are going to have to make some modest increases in our payments in the years ahead.

That leads our focus to the third item — the benefit package — what is provided and how much of it is used — as the place we have to concentrate.

My goal is to, for the next five years, stabilize the expenditures for TennCare at the current proportion of state revenues; to not let those expenses rise by the ten percentage points over that period that McKinsey has projected. In effect, that means that we allow TennCare costs to rise at no greater rate than our state tax revenues do.

To achieve this, we need to reduce the projected state spending on TennCare five years from now by \$1.0 billion in that fifth year; in other words, to spend about \$2.8 billion in that year instead of the currently projected \$3.8 billion. We need to make proportional reductions in each year leading up to that. That represents an extra \$1 billion in that year alone that we can invest in education, in jobs, in our employees.

We need to make three changes to achieve such a reduction:

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First, we need to tailor the benefit package to the real and fair needs of the various groups included in TennCare. It makes no sense to offer the same benefits to a 5-year-old child, to that child's mother, to a 75-year-old Medicare person, to a mentally ill or a developmentally disabled Tennessean, but that is what we do.

To make the benefits more rational, I propose for the largely able-bodied adults — not for children or pregnant women or the disabled — for able-bodied adults to place reasonable limitations on what we will pay for.

Today, we pay without limits. We have one of the richest benefit packages in the nation; an unlimited number of prescriptions, an unlimited number of doctor visits, an unlimited number of emergency room visits, an unlimited number of hospital days. This has to change. For the largely able-bodied adults — we propose to pay for up to six prescriptions a month, for up to 45 hospital days in a year, for up to eight outpatient visits a year, up to ten physician visits a year, up to ten occasions of lab and x-ray a year.

I'll be straightforward with you; these are real changes in what we will pay for. But setting these reasonable limitations won't result in significant cost shifting to providers, and will move us into the mainstream of benefits in other states; not the lowest, not the highest.

Second, I'm proposing to establish for all TennCare members a far stronger pharmaceutical formulary. We should allow only generic drugs where they are available, and should pay for only the price of the lowest cost drug that meets the needs of the patient. If someone wants another drug that they saw on television or that a friend recommended, we will contribute toward their purchase the amount of the lowest price drug, but they have to make up the difference.

In addition, I am proposing that we stop paying for two drug categories where there are completely adequate first line over-the-counter alternatives: antihistamines and gastric acid drugs. All of the functionality of the prescription drugs in these two groups is available over-the-counter. These two groups of drugs are 12% of all TennCare prescriptions, or \$280 million this year. I am asking people to purchase these the same way they do vitamins or cough syrup; off the shelf in their local pharmacy.

Third, we need to establish a system of cost-sharing for TennCare services. It is appropriate to continue to provide services for free to children, pregnant mothers and to the disabled. But for an able-bodied adult, things shouldn't be completely free, everyone needs to pay a little something.

This cost-sharing is a complex issue, with a great many details being worked out with the federal regulators. The structure I'm aiming for is a tiered one: for children, pregnant women and the disabled there would be no copays. For other Medicaid eligible persons, I want a structure that is affordable but asks them to share in the cost. For the expansion population — the uninsured and uninsurable — I want to further extend the system of cost-sharing to mirror what a state employee is asked to do.

You have doubtless noticed that there is considerable focus on the prescription drug benefit in these changes; for example, paying for only the least expensive alternatives for everyone, and for able-bodied adults limitations on the total number of prescriptions and the requirement to pay a portion of the cost.

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These measures are necessary because of how far we have allowed this to spin out of control: in the United States, the average number of prescriptions for each person each year is 10%, in the South it is 11%, in TennCare it is 30.

A few minutes ago I mentioned that our state spends more on two drugs — Zyprexa and Zocor — than it does to run the UT Medical School. To add insult to injury, consider that both drugs have vastly less expensive alternatives.

For example, just last November, in the *Journal of the American Medical Association*, there was a research paper describing an alternative combination to Zyprexa that resulted in the same effectiveness for the patient. The cost of Zyprexa to TennCare is \$5.47 per pill. The cost of the equally effective alternative combination is 33 cents. Patients take one to four pills a day for life.

In the months ahead, we're all going to experience unprecedented political pressure. There is a lot of money at stake here for the corporations that sell these drugs, and you can expect advertisements, you can expect a whole herd of lobbyists inviting you to backroom meetings, you can expect so-called grass root efforts. I ask you in the general assembly to stay focused on what we have to do, and in particular to not pass any legislation that ties our hands in dealing with this critical issue.

There are many fine pharmaceutical companies with many fine products, but we need to retain the control of what we purchase in our own hands, and make our decisions based on the research and not the advertising and lobbying.

Finally, I'm proposing a comprehensive disease management program for TennCare.

In addition to generally healthy children and adults, TennCare serves a small number of people who represent a large part of the cost. These are those with chronic diseases — diabetes, coronary disease, and the like. Just 15% of TennCare members represent 75% of the costs. A careful focus on these disease categories is essential to controlling costs, and will yield real benefits in the quality of care as well.

This is not something that will have an immediate effect on costs — it takes time and work to put into place — but is essential in the longer run. To effectively address the range of cost issues, we need some strategies that will have an immediate effect, such as benefit changes, and we also need strategies such as disease management that will help sustain our effort over the years.

As we put these benefit changes in place, we also need to provide safety nets. I am proposing two of them.

First, there will be people from time to time who need some medical service but simply cannot pay. For emergencies, of course a person always can go to the nearest emergency room, and receive attention as a matter of law. For non-emergency circumstances, we're proposing to provide some funds to selected safety net hospitals with associated medical groups around our state, and those hospitals will accept the responsibility to provide care without cost-sharing.

It is not as convenient for a beneficiary as using a private doctor or local hospital or pharmacy, but it ensures that no one is ever denied care because of the inability to pay.

Second, there will be circumstances where we should consider making some additional funds available. There may be a prescription drug, for example, that we have elected not to pay for,

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but is desired because of a person's special circumstances. I'm proposing to set up committees of providers and others, with a specific budget to spend, to whom requests can be made by the participant and their physician for services outside the scope of the TennCare benefit package.

This is not an open checkbook, these groups will have a specified budget and when that is gone it is gone. But any new boot is going to pinch here and there, and this is a way to make sure that when it does, we have a way to relieve some of it.

I've proposed some major, structural changes in TennCare tonight. These have been very carefully thought through with a lot of help and input, but I am certainly not asserting that they are perfect. As with any strategy, we will have hit some bullseyes, and in other places we'll be off the mark.

TennCare badly needs an ongoing review process that can correct and tune as it goes. I propose to appoint a commission, comprising providers, advocates, and experienced business executives with the charge to annually review the benefits, the enrollment, the costs, and the performance of TennCare, and to make recommendations for its improvement.

This is a commission of experts, not a political commission. It will have a budget that allows it to hire expert assistance, will have access to all TennCare data and will be independent of TennCare. Their charge will be this: the legislature has set overall financial limits on how much we spend on TennCare. First, do we need to make any changes to stay within those limits? Second, what changes do we need to make to better tailor the dollars we are spending to the needs of the patients we serve?

I've described to you how we can save TennCare. An independent fraud unit, tailoring our benefits to the needs of different groups, requiring the use of less expensive drugs, instituting cost-sharing for able-bodied adults, some safety nets, and an annual review process. There are approvals to obtain, and no doubt fights to fight, but if we are successful we can save the program.

I want to do more than save it. I want TennCare to become the model of how to provide excellent health care at a cost that we can afford. I want people in every other state to look to Tennessee for how to do this right.

To do this we need to turn it into a well-oiled machine. Imagine a system where each person has a single electronic medical record, which they take from place to place. Imagine a system where our best doctors establish standards of practice, and we have the technology so that when a practitioner does something that he learned in medical school but is no longer the preferred way, it is flagged and he is referred to the research. Or when she forgets something that we now think is needed for the best care, she is reminded.

This is the frontier in health care.

This might be an impossible dream, except for the fact that we already have right here in Tennessee the national leader in the field of medical informatics — Vanderbilt University Medical School. While we are at work saving TennCare, I'd also like to start building some of the foundations to turn it into a model for other states. I'd propose to start with one of our large providers — the Med in Memphis — and working with Vanderbilt and our own medical schools pioneer a real 21st century approach there. When it is successful, we can begin expanding it to other providers.

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When I began my time as governor, TennCare was in shambles; my dream is that when I end it TennCare will be a model for America.

Our entire Washington delegation has been supportive of our efforts to fix TennCare. I want to specifically acknowledge the generous help that Senator Frist has given to these efforts. Senator Frist has stepped forward to help in the best spirit of putting Tennessee's needs ahead of politics. Senator, I thank you for what you have done, and ask your continued help in the next few critical months.

I also want to say how much I appreciate the way so many physicians, nurses and other providers have stuck with TennCare through all its missteps and problems. I want providers to be partners in our efforts over the years to continue to improve this vital program, and I ask your help tonight.

I want to speak directly for a moment to the advocates in our community and elsewhere who concern themselves with TennCare. I am not your enemy in this; you and I want to accomplish the same things. There has been a lot of positioning on your part these last few weeks against changes in TennCare, and I am very respectful of the power you have to slow things in the courts, to engage TennCare beneficiaries politically, to speak against what we have to do.

I'm inviting you into this process; I'm asking you to join with us. We will get a better result with your involvement and expertise. But I also want you to know that I am completely committed to balancing this program with Tennessee's other needs. Many of the very same people who benefit from TennCare have even greater amounts to gain from investments in education. I want to heal the wounds, but only one-third of all we spend on TennCare is mandatory benefits and enrollment, and if we are forced to amputate a limb to save the patient, we will do so. I'm asking you to help me work on a humane alternative.

This is not a political issue for me; it's not about finding some least common denominator that we can all agree on. It is at the heart of what I think leadership is; define the problem, take hold of the rudder and steer the ship where it needs to go, without hesitation, without fear, and above all with the best interests of her passengers in your heart.

I began this evening with the story of the biggest house in the neighborhood, and I want to return there now.

You will remember that our family had bought the biggest house in the neighborhood with the best of intentions. But paying the bills took all of their money, with nothing left for other important things in life.

Luckily, they were a smart family, and we return to them one night after dinner as they sat down at the table and took stock.

"We're in over our heads," the father said.

"This house owns us," the mother said.

"I love my big bathroom of my own," said the sister, "But I really wouldn't mind sharing with my brother. That's not something important."

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"And I love the pool," said the brother, "But to be honest I'd just as soon have my friends over to the den like everyone else does."

So they sold the biggest house in the neighborhood, and bought a wonderful but a bit smaller home not too far away, in another nice neighborhood. In the years after that they took family vacations they remembered all their lives. Both the brother and the sister got first-class educations and went on to be successful and have families of their own.

And the later years, when the mother and father sat down together after the grandkids had gone home, they would often tell each other how the most important thing they ever did as a family was to get rid of that old white elephant house and to get balance back into their lives.

And they all lived happily ever after.

Two weeks ago, I was here in this same chamber, and spoke with you about the vision and energy of Tennessee, about how we have always had the ability to chart our own course, about how we've always reached to the frontier.

Tonight, I've put forth a set of proposals that will let us move out of that oversize house into very respectable and sensible home. I've put forth a set of proposals that will let us share Tennessee's wealth among the things that count; education, and creating jobs, and yes, in its proper place, health care for those who need it.

Some of these changes are administrative, and we can do with a pen. Others will require the work of the general assembly. Right here and now I ask you for your support.

To the general assembly, to the advocates, to TennCare members, I ask you to respond as Tennesseans always have when challenged: with vision, with energy, with courage, and most of all with common sense. Together we're going to save TennCare and together Tennessee will once again pioneer the way for others. Thank you.

DISSOLUTION OF JOINT CONVENTION

Mr. President Naifeh declared that the purpose for which this Joint Convention was called having been accomplished, the Joint Convention stood dissolved.